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Law

OFF-DUTY EMPLOYMENT

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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OPR: AFMC LO/JAF (Mr Mark Stone)
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This instruction implements AFMCPD 51-2, *Off-Duty Employment*. It establishes internal agency procedures for processing requests for approval of off-duty employment required to be submitted by sections 2-206a and 3-306e of DoD 5500.7-R, *Joint Ethics Regulation (JER)*, authorized by DoD Directive 5500.7, *Standards of Conduct*. This instruction also delegates to agency designees, commanders, heads of organizations, and supervisors the authority expressly granted by sections 2-303 and 3-306e of DoD 5500.7-R to require DoD employees under their jurisdiction to report any off-duty employment prior to engaging in such employment, and to prohibit off-duty employment that will detract from readiness or pose a security risk. All military and civilian personnel assigned to Air Force Materiel Command (AFMC) who seek to engage in off-duty employment are required to submit an AF Form 3902, **Application and Approval for Off-Duty Employment**. AFMC Instruction (AFMCI) 51-201 is a punitive instruction; military and civilian personnel who fail to comply with this instruction subject themselves to criminal liability and/or disciplinary action. This instruction does not apply to the Air National Guard or US Air Force Reserve units and members.

SUMMARY OF REVISIONS

This revision updates procedures for processing requests regarding off-duty employment.

1. Policy:

- 1.1. AFMC personnel, both military and civilian, must not engage in off-duty employment that:
 - 1.1.1. Is prohibited by statute or regulation;
 - 1.1.2. Would detract from readiness; or
 - 1.1.3. Would pose a security risk.

1.2. Explanation of Terms.

1.2.1. The term "off-duty employment" means business activities and compensated outside employment, including self-employment. Examples of self-employment include the sale of insurance, stocks, mutual funds, real estate, cosmetics, household supplies, vitamins, and other goods or services.

1.2.2. The term "readiness" includes the ability of the Air Force to perform its mission in the manner and at the time and place required, and the ability of a military member or civilian employee to perform his or her government duties in the manner and at the time and place required.

1.3. All civilian and military personnel who intend to perform off-duty employment, including employment while on terminal leave, shall submit an AF Form 3902 to their first-level supervisor at least two weeks before beginning employment (except in cases where two weeks notice is not possible). Final approval must be obtained prior to starting off-duty employment. Medical service personnel must comply with the requirements regarding off-duty employment in AFI 44-102, *Community Health Management*, in addition to the requirements of this instruction.

1.4. A new AF Form 3902 must be submitted whenever the type of employment or the employer changes, the individual's Air Force duties change significantly, or the number of regularly-scheduled off-duty hours increases. Occasional increases in hours due to situations such as the availability of overtime work, or the need to fill in for an absent coworker, do not require resubmission of the AF Form 3902. Previously denied requests may be resubmitted after a change in the individual's Air Force duties.

1.5. Military personnel who fail to comply with the filing requirements of this instruction violate a lawful general order which may result in appropriate disciplinary action or criminal liability under Article 92 of the Uniform Code of Military Justice. Air Force civilian employees who violate this instruction by failing to comply with its filing requirements are subject to appropriate disciplinary action without regard to criminal liability.

2. Procedures for Completing AF Form 3902:

2.1. The employee completes Section I.

2.2. The employee's immediate supervisor completes Section II.

2.3. In cases where the employee is required to file a SF 278, **Public Financial Disclosure Report**, or an OGE Form 450, **Confidential Financial Disclosure Report**, and where the off-duty employment will be with a "prohibited source" as defined in the JER, DoD 5500.7-R, (which includes any person or company that does business or seeks to do business with the DoD, regardless of the dollar amount of the contract or purchase), the Center, Wing or Organization JA shall complete Section III. In other cases, JA review is not required unless requested by the employee's immediate supervisor. However, Installation Commanders may require JA review in all cases (this may be accomplished by letter, as opposed to by local supplementation of this instruction).

2.4. Section IV is completed by the first person in the employee's chain of command or supervision who is a commissioned military officer or a civilian GS-12 or above, and who is above the employee's immediate supervisor. However, if the employee's immediate supervisor is a General Officer, SES member, SES-equivalent employee (e.g., ST, SL), or Center, Wing, or Lab Commander (or equivalent), then the immediate supervisor also completes Section IV. The individuals specified in this paragraph who are authorized to complete Section IV of the AF Form 3902 (other than Unit Commanders)

are considered to be Delegates of Unit Commanders, for purposes of completing Section IV of the AF Form 3902.

2.5. Filing AF Form 3902 . After a request is approved or disapproved, the original request will be maintained either by the individual's unit, or in one or more centralized locations (such as a Squadron Section Commander's office), or in such manner as the Installation Commander deems appropriate. In cases where the Legal Office coordinated on the AF Form 3902, a copy of the completed AF Form 3902 will be sent to the Legal Office, which will maintain the form as required by the *Joint Ethics Regulation*, DoD 5500.7-R.

JERALD D. STUBBS, Brigadier General, USAF
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